



Public Employees for Environmental Responsibility

962 Wayne Avenue, Suite 610 • Silver Spring, MD 20910

Phone: (202) 265-PEER • **Fax:** (202) 265-4192

Email: info@peer.org • **Web:** <http://www.peer.org>

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October 9, 2018

Regional Freedom of Information Officer
U.S. EPA, Region 1 (OARM01-6)
5 Post Office Square, Suite 100
Boston, MA 02109-3912
(617) 918-1102

RE: FOIA REQUEST

To whom it may concern:

A U.S. Army/U.S. Army Corps of Engineers document dated January 18, 2018 shows per- and polyfluoroalkyl substances (PFAS) levels of 0.114 ug/L (114,000 ppt) found in an Ayer, Massachusetts public supply well (see https://www.ayer.ma.us/sites/ayerma/files/uploads/2018-01-18_fort_devens_rab_meeting_slides.pdf). The date of this particular test was October 17, 2017.

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning this PFAS sampling and related topics. Specifically, we request the following:

1. All documents, including but not limited to, test results, notes, reports, letters, emails, site investigation documents, memoranda, briefing documents, and presentations, related to the existence or possible existence of PFOA and PFOS (PFAS), and any possible responses to such contamination (including notice to water consumers), in the municipalities of Sudbury, Hudson, Stow, Maynard, Harvard, Ayer, Shirley, Lancaster, and/or the Devens Enterprise Commission from October 17, 2017 to the present.
2. All communications between and among the U.S. Environmental Protection Agency (EPA), U.S. Army (Army), U.S. Army Corps of Engineers (Corps), any Massachusetts municipality, the Massachusetts Department of Environmental Protection (MaDEP), and/or the Massachusetts Department of Public Health (MaDPH) concerning item 1.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and

describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees.

2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The requested material concerns toxic contamination of public water supplies in Massachusetts townships. The requested material will inform the public as to what EPA knew, when it knew it, and what if anything the agency did about it.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.

Our request goes to the issue of whether the U.S. EPA is failing to inform affected publics about contamination of drinking water sources. The requested information would reflect the rigor of EPA administration of anti-pollution laws affecting public health. As such, it is of direct importance to the American public at large.

In addition, this information bears on the quality and completeness of Superfund cleanup at a former military site. Many similar sites exist across the country.

Finally, this request concerns PFAS, a topic where EPA is doing broad public outreach, denoting the agency’s recognition of the broad public interest in this topic.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on PEER’s website which draws between 1,000 and 10,000 viewers per day; and
- Publication in PEER’s newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

PEER has a long track record of attracting media and public attention to the internal records of federal agencies, including EPA. Through these methods, PEER generates an average of 1.5 mainstream news articles per day.

4. The extent to which disclosure will serve the requestor’s commercial interest.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

5. The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

A handwritten signature in blue ink, appearing to read "Jeff Ruch", with a stylized, cursive script.

Jeff Ruch
Executive Director